IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

WP(C).No. 11584 of 2007(D)

PETITIONER:

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1. RAJESH K.R., PRATHEEKSHA,
   VARANADU P.O., CHERTHALA, ALAPPUZHA DISTRICT.

2. GOPAKUMAR N.G., NADUVILACHIRAYIL,
   MAYITHARA P.O.,CHERTHALA, ALAPPUZHA DISTRICT.

3. AJAYAKUMAR M., ABHISHEK BHAVAN,
   VARANADU P.O., CHERTHALA, ALAPPUZHA DISTRICT.

4. SABU K.C., KADAVIL VEEDU,
   VARANADU P.O., CHERTHALA, ALAPPUZHA DISTRICT.

BY ADV. SRI.K.MANOJ CHANDRAN
SRI.P.R.AJITHKUMAR

RESPONDENTS:

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1. THE SECRETARY, HOME DEPARTMENT,
   GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. THE DIRECTOR GENERAL OF POLICE,
   LAW & ORDER, POLICE HEAD QUARTERS,
   THIRUVANANTHAPURAM.

3. THE COMMISSIONER OF POLICE,
   KOZHIKODE CITY, KOZHIKODE.

4. CENTRAL BUREAU OF INVESTIGATION, KOCHI,
   REPRESENTED BY THE STANDING COUNSEL FOR CBI,
   HIGH COURT OF KERALA, ERNAKULAM.

5. ASHOK KUMAR @ JAMES, S/O.KARTHIYAYINI,
   2/87, KARAPPARAMBU P.O., EAST HILL,
   KOZHIKODE.

6. BYJU JOHN @ PETER WILLIAM,
   PUTHEMPURAYIL, PULLAZHI,
   AYYANTHOLE, THRISSUR.

7. D.SALI,
DYSP, CBCID, KANNUR, 2/87,
KARAPPARAMBU P.O., EAST HILL, KOZHIKODE.

R4 BY ADV. SRI.S.SREEKUMAR, SC FOR CBI
R1 TO 3 BY GOVERNMENT PLEADER SRI. GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

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W.P.C.No. 11584 of 2007 D

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Dated this the 11th day of June, 2007

JUDGMENT

The petitioners complain that they are victims of the offence of cheating committed by respondents 5 to 7. The short grievance is that no proper investigation is being conducted. The offence of cheating has wider ramification. Certain other persons were also victims of cheating. A crime has already been registered in respect of the said act of cheating. Investigation is in progress. It is registered as Crime No. 344 of 2006 of Nadakkavu Police Station, Kozhikode. The petitioners have come to this Court complaining of inadequate investigation on the basis of Ext.P10 complaint filed by them before the City Police Commissioner.

2. The learned Prosecutor, after taking instructions, submits that it is not a case where no action is being taken on Ext.P10 complaint. Ext.P10 complaint was submitted to the City Police Commissioner. The needful is being done in the matter. Admittedly, long after the filing of this petition before this Court on 2.4.2007, the

petitioners were questioned on 30.4.2007. As directed by this Court on 13.4.2007, a statement has been filed by the Investigating Officer.

3. The learned counsel for the petitioners submits that eventhough some steps have been taken subsequent to the filing of this writ petition, the petitioners are not satisfied with the quality of investigation at all. It is submitted that in the petition filed by the petitioners specific allegations were raised against the Dy.S.P. in the Crime Branch C.I.D. Kannur, i.e. the 7th respondent herein. In the statement filed by the third respondent, no specific mention whatsoever is made of the alleged role of the 7th respondent in the commission of the crime. The petitioners, in these circumstances, apprehend that justice may not be meted out to them by the investigation conducted by any subordinate officers.

4. I have considered the submissions made. I have perused the available records. I certainly do find merit in the submission of the learned counsel for the petitioner that the 7th respondent, a Dy.S.P. in the Crime Branch C.I.D., having allegedly committed the offence, the investigation must be conducted by a senior police official, not at any rate below the rank of a Dy.S.P. I am satisfied that a direction to the third respondent to ensure that the investigation of the crime is conducted by a competent senior police

official, not below the rank of a Dy.S.P., shall serve the ends of justice eminently in the facts and circumstances of this case.

5. This writ petition is accordingly allowed in part. The third respondent shall ensure that the investigation in this case is continued by a senior police official of proven competence in the district, not at any rate below the rank of a Dy.S.P. Necessary orders to that effect shall be issued by the third respondent within a period of three weeks, with copy to the first petitioner. Needless to say, the petitioners' right to approach this Court later, if a proper investigation is not conducted inspite of this judgment, shall remain unfettered by the disposal of this writ petition.

(R. BASANT)
Judge

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R. BASANT, J.

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W.P.C.No. 11584 of 2007 D

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Dated this the 13th day of April, 2007

O R D E R

The learned Prosecutor submits that Ext.P10 has been received, but no separate crime has been registered as Crime No. 344 of 2006 under Section 420 r/w. 34 I.P.C. has already been registered on the basis of the complaint filed by some other persons, who have also been allegedly cheated similarly. The learned counsel for the petitioner still raises the grievance that no proper investigation is being conducted even assuming

that there is consolidation of allegations. None of the petitioners have been questioned also. I am satisfied that the Investigating Officer must be directed to file a statement showing the steps taken in the matter. This is particularly so as the 7th respondent herein, one of the accused, is reported to be a Dy.S.P. in the State police. The statement shall be filed within one month with copy to the petitioner. The Prosecutor shall produce the C.D. also for perusal of this court. Call on 28.5.2007.

It is directed that no final report shall be filed in the mean time.

(R. BASANT)
Judge

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